

No. 9(1)82-6Lab/8317.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of M/s. The Hissar District, Central Co-operative Bank Ltd. Hissar.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT HARYANA,  
ROHTAK

Reference No. 123 of 1981

Between

SHRI SURENDER SINGH, WORKMAN AND THE MANAGEMENT OF M/S THE HISSAR DISTRICT  
CENTRAL CO-OPERATIVE BANK LTD., HISSAR.

Present.—Shri S.S. Gupta, for the workman.

Shri Banwari Lal, for the management.

#### AWARD

This reference has been referred to this court by the Hon'ble Governor,— vide his order No. ID-SR/91-81/47893, dated 18th September, 1981 under section 10(i) (c) of the I.D. Act for adjudication of the dispute existing between Shri Surender Singh, workman and the management of M/s The Hissar District Central Co-op. Bank Ltd., Hissar. The term of the reference was:—

Whether the termination of services of Shri Surender Singh was justified and in order? If not, to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance in response to the notices, filed their respective pleadings, on the basis of which the following issues were framed:—

1. Whether this court has no jurisdiction to try the present dispute being not covered under the I.D. Act?
2. As per the term of reference?

The management examined Shri Uday Pal Singh, Manager respondent bank as their witness and closed their case. The workman examined himself as his witness and closed his case. I heard the learned representatives of the parties and decide the issues as under.

Issue No. 1.—The management neither produced any evidence on this issue nor pressed the same during the course of arguments. The same is accordingly decided against the management.

Issue No. 2.—The management witness Shri Uday Pal Singh has deposed that Shri Surender Singh was appointed on 29th November, 1976.— vide Ex. MW-1/1 on ad hoc basis. His service period was extended upto 31st March, 1979.— vide order Ex. MW-1/2. Ex. MW-1/3 was the order terminating the services of the workman. In his cross examination the management witness gave out that the post of Manager Mini Bank was of permanent nature. Ex. MW-1/2 had not been delivered to the workman according to their record. The workman continuously worked from 1976 to 1979. There was no instance before him nor on the record by which it could be said that the work and conduct of the workman was not good. He also gave out that no retrenchment compensation was paid to the workman at the time of his termination.

The workman has stated that he gave his demand notice on 21st June, 1981 and from the date of termination to the date of raising of demand he kept on requesting the management to reinstate him as his termination was wrong and illegal. In his cross examination he has stated that he used to see the Managing Director but had not given anything in writing to him.

Ex. MW-1/1 does not specify any period upto which the workman was appointed on ad hoc basis and the workman worked upto 19th September, 1978 without any break nor any letter was issued extending his services prior to 19th September, 1978. The service of the workman was extended upto 31st March, 1979.— vide letter Ex. MW-1/2 and after the expiry of 31st March, 1979 order of termination Ex. MW-1/3 was issued on 6th April, 1979 dispensing with the services of the workman w.e.f. 31st March, 1979. This proves the *mala fides* of the management. The management issued letter Ex. MW1/2 which was not delivered to the workman extending his services upto 31st March, 1979 only to pave the way to the exit of the workman from their services otherwise there was no need for issuing Ex. MW-1/2 as no time limit was specified in the appointment letter Ex. MW-1/1. The

workman was appointed against a permanent post. No notice or notice pay in lieu thereof or any retrenchment compensation was paid to the workman as has been admitted by the management witness. The order of discharge simplicitor is in the garb of dismissal as the same prompted on the issue of Ex. MW-1/2 which contains the inscription that the work of the adhoc managers mentioned there in was not satisfactory and their services could not be regularised and found a way of dispensing with their services by extending their service period to a fixed date that is 31st March, 1979. This is clearly an act of unfair labour practice and amounts to victimisation. The management has also not fulfilled the mandatory provisions of section 25-F which also renders the termination void *ab initio*. I therefore answer the reference and give my award that the termination of the workman is neither justified nor in order and the workman is entitled to reinstatement with continuity of service and with full back wages. The reference is returned in these terms.

Dated the 7th August, 1982.

BANWARI LAL DALAL,

Presiding Officer,  
Labour Court Haryana, Rohtak.

Endst. No. 1888, dated 9th August, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the I.D. Act.

BANWARI LAL DALAL,

Presiding Officer,  
Labour Court, Haryana, Rohtak.

The 14th September, 1982

No. 9(1) 82-6Lab/8480. In pursuance of the provision of section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s. R. S. Engineering Company Plot No. 208, Sector 24, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 4/1981

*Between*

SHRI SHREE NIVAS WORKMAN AND THE MANAGEMENT OF M/S. R. S. ENGINEERING  
COMPANY PLOT NO. 208, SECTOR 24, FARIDABAD

*Present :—*

Shri G. S. Chaudhary, for the workman.

Nemo, for the management.

#### AWARD

The Governor of Haryana referred the following dispute between the workman Shree Nivas and the management of M/s. R. S. Engineering Company Plot No. 208, Sector-24, Faridabad, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Shree Nivas was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. The following issues were framed by my order, dated 30th March, 1981 :—

- (1) Whether the workman abandoned his job of his own?
- (2) Whether the termination of services of Shri Shree Nivas was justified and in order? If not, to what relief is he entitled?

During the pendency of the proceeding, the representative of the management made a statement that the service of the workman was not terminated and he could join his service at any time. The workman made a statement that he was reinstated at his job. Therefore, parties were given time to settle the dispute about the period of unemployment but could not be so settled. The management examined Shri D. C. Rawat Manager as MW-1 and the workman examined himself as his own witness. Arguments were heard. My findings issuewise is as under :—

**Issue No. 1.**—MW-1 deposed that the workman was appointed on 1st December, 1979 as moulder. He worked upto 12th October, 1980. He started remaining absent. The management issued him Exhibit M-1 but he did not report for duty. The workman sent demand notice which was replied before the Conciliation Officer,— vide Exhibit M-2. The service of the workman was not terminated and the management was ready to take him on duty. He rejoined his duty on 1st November, 1981. Workman did not attend duty after 25th November, 1981. Again letter Exhibit M-4 was sent to him copy of which was also addressed to this Tribunal which was Exhibit M-5. Workman had demanded Rs. 12,000 from the management. Letter Exhibit M-4 was sent by the registered post. A.D. Card and postal receipt were spoiled from fire. Therefore he had brought dispatch register copy of which was Exhibit M-6. In cross examination, he admitted that the Exhibit M-1 attendance card was of the company but it did not contained any signature whereas card was signed by the office assistant. He did not know if the workman had filed his claim before the Payment of Wages Authority and the management had made payment. He denied the suggestion that the workman was made to sign and he was asked to sit at factory gate. He denied the suggestion that Exhibit M-4 was not sent to the workman. He further replied that attendance of the workman was marked upto 24th November, 1981.

WW-1 deposed that he joined in the factory on 19th February, 1979 as Moulder. He was not given any notice or charge sheet before termination. His service was terminated on 20th October, 1980. He was not issued any termination letter. Exhibit W-1 was his attendance card in which attendance was marked upto 19th October, 1980. He filed his claim for wages for the month of 1st October, 1980 to 19th October, 1980, before the payment of wages authority which was Exhibit W-2. Payment was made to him before the payment of Wages Authority. He was made to sit at the gate after making statement that the workman could rejoin his duty. He was not paid any compensation etc. at the time of termination his services. In cross examination, he denied the suggestion that he remained absent from 12th October, 1980 to 19th October 1980. He denied that Exhibit M-1 was sent to him. It was admitted that Exhibit M-2 was copy of comments before the Conciliation Officer. He admitted his signature on Exhibit M-3 which was his joining report but he was made to sit upto 24th November, 1980 at the factory gate and he was not given duty. He denied the suggestion that he had demanded Rs. 10,000 from the management.

I have given thoughtful consideration to the case and find that there was no record to show that the workman received intimation from the management about his absence from duty. The version of the management was that A.D. Card and postal receipt were destroyed in fire alongwith some other record concerning sales tax but MW-1 stated it that no report was made to the police about the fire. The management produced Exhibit M-6 a copy from despatch register but it was of no help because the same was for the month of December, 1981 whereas the alleged absence was from 12th October, 1980. The workman produce his attendance card Exhibit W1 in which attendance was marked up to 19th October, 1980. It goes to show that he was not absent upto this date. He submitted his demand notice on 24th October, 1980. As regards, his claim for wages for the period 1st October, 1980 to 19th October, 1980, the workman did not place on record the proof of payment of wages before payment on wages authority. From my above discussion, I find that the management had failed to prove abandonment of job by the workman by producing any cogent and credible evidence. Therefore, this issue is decided against the management.

**Issue No. 2.**—As discussed above, this is not a case of misconduct or termination of service on account of proved unsatisfactory work. The termination of the service of the temporary workman without assigning any reason or proved misconduct was unjustified. Therefore, I find the termination of service not in order and unjustified. As regards the relief, I find that the parties had compromised upto extent of joining duty of the workman but after few days of the re-instatement during the pendency of the proceeding there again arose their separation. The version of the management was again that the workman absented himself whereas the workman contended that he was not given duty by the management. In such case, it was very difficult to arrive at correct conclusion of facts. Looking to the facts of the case, I give my award that the workman is entitled to his re-instatement but he will receive half back wages upto the period this award becomes enforceable. I order accordingly.

Dated the 4th August, 1982.

M. C. BHARDWAJ,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endorsement No. 868, dated the 10th August, 1982

Forwarded four copies to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,  
Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.